



Sentencing Policy Study Committee Memoranda of Meeting Held on October 6, 2004

Members in Attendance

Rep. William Crawford, Indiana House of Representatives
Steve Johnson, Executive Director Indiana Prosecuting Attorney's Council
Larry Landis, Executive Director Indiana Public Defender Council
Sen. David Long, Chair, Indiana Senate
Hon. David Matsey, Starke Co. Circuit Court
Todd McCormack, Hendricks Co. Probation
Hon. Judith Proffitt, Hamilton Co. Circuit Court
Evelyn Ridley-Turner, Commissioner Indiana Department of Correction
Hon. Richard Good (Ret.), On behalf of Chief Justice Shepard
Robin Tew, Executive Director Indiana Criminal Justice Institute
Hon. James Williams, Union Co. Circuit Court

Members Not in Attendance

Sen. Glenn Howard, Indiana Senate
Sheila Hudson, Allen Co. Community Corrections
Rep. Luke Messer, Indiana House of Representatives
Hon. Tanya Walton Pratt, Marion Co. Superior Court

Others in Attendance

Jim Hmurovich, Consultant to SPSC
Mary Ziemba-Davis, Deputy Director of Research, ICJI
Brent Myers, Program Director, Research Division, ICJI

Memoranda

Sentencing Policy Study Committee Chair, Sen. David Long, called the meeting to order at 12:30 p.m. Sen. Long stated that the Committee had several proposed recommendations to discuss. Jim Hmurovich was introduced and briefly discussed the recommendations from the Policy and Systems Development and the Transitional Services Workgroups and Judge Richard Good discussed the Criminal Code Revision Workgroup.

Policy and Systems Development

The workgroup looked at the purpose of the criminal code and developed a new purpose statement. Because LSA was still revising the purpose statement, the Committee could not yet vote on it. Mr. Hmurovich stated that the purpose statement would be ready for Committee action at the October 20, 2004, meeting.

Transitional Services

The Transitional Services Workgroup met prior to the meeting of the entire Sentencing Policy Study Committee. Three recommendations were discussed: 1) The development of a consistent authority and process to grant and deprive time based credit so that Judges, Sheriffs and the

Department of Correction processes were consistent, 2) The expansion of work release as a step-up and a step down process and While the exact language of the recommendations was not yet finalized, and 3) accessibility to probation services, electronic monitoring, work release and county jail incarceration as a minimum array of community sanctions for each court holding criminal jurisdiction.

Criminal Code Revision

The Criminal Code Revision Workgroup was scheduled to meet later in the afternoon. In addition to any recommendations from that meeting, the Workgroup was focusing on recommendations that would give judges the authority to modify conditions of probation, allow judges to order the execution of all or part of a suspended sentence, and address the issues raised by *Blakely v. Washington*.

Committee member Steve Johnson then briefly commented on *Blakely*. Included were statements that the issue of *Blakely* and its effect on consecutive sentences was yet to be determined and judges were generally unhappy about the elimination of the “catchall” aggravator. Mr. Johnson further mentioned the possibility of reviewing those non-statutory aggravators that have been recognized by the courts. Sen. Long stated that these issues would be discussed further in the Criminal Code Revision Workgroup immediately after this meeting.

Committee member Larry Landis continued with a brief on his trip to Denver, CO, for a conference on *Blakely* held by the Vera Institute. Mr. Landis reported that states with sentencing structures similar to Indiana’s were looking at their lists of aggravators and removing those that were unnecessary or that could be charged as elements of an offense. Any amended list of aggravators would need to be as simple as possible for juries because it is hard for a jury to compare facts under a present case to other cases. Mr. Landis stated that there were a number of issues that would not be clarified in the near future including *Blakely*’s application to consecutive sentences, juvenile waivers, and parole/probation revocation, and whether a juvenile adjudication met the “prior conviction” exception.

Indiana Sentencing and Corrections Survey

Sentencing Policy Study Committee Chair, Sen. David Long, introduced Mary Ziemba-Davis and Brent Myers, stating that they would be presenting the results of the *Indiana Sentencing and Corrections Survey*. The purpose of the survey was to assess practitioner perspectives on Indiana’s sentencing laws and policies. The assessment included the purpose of the criminal justice and corrections systems, the availability of sentencing options, and the needs of offenders held in state correctional facilities.

For questions or a copy of the survey, please contact Mary Ziemba-Davis or Brent Myers as follows:

Mary: (317) 232-7611, mzd@cji.state.in.us
Brent: (317) 232-1300, bmyers@cji.state.in.us

Following the presentation, the Committee briefly commented on the results and usefulness of the survey. Sen. Long concluded by stating that the survey was important in that it allowed input from all stakeholders involved in sentencing and corrections. Sen. Long thanked Ms. Ziemba-Davis and Mr. Myers for their work on the survey. The Committee was reminded of the Criminal Code Revision Workgroup meeting that was to follow.

Sen. Long adjourned the meeting.